



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 16, 1994

Ms. Martha McCabe
General Counsel
Texas General Land Office
Stephen F. Austin Building
1700 North Congress Avenue
Austin, Texas 78701-1495

OR94-075

Dear Ms. McCabe:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), Government Code chapter 552.¹ We assigned your request ID# 23400.

The General Land Office (the "office") has received a request for ten categories of information relating to nonstate activities, use of state resources, an internal office investigation, open records requests, appointment and scheduling calendars, ethics policies, and the office's connection with the President of the United States and his wife. You indicate that you have released all of the requested information, to the extent that you can identify it, except for certain legal memoranda, representative samples of which you have submitted to us for review.

We first address your contention that the request is unclear and burdensome. Specifically, you contend that the requestor is unclear in categories 7 and 8 as to what information the requestor seeks:

7. The complete file directories from, describing or relating to
all computer system back-up tapes and floppy disks relating to the

¹We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

work product of those staff personnel employed by or in the General Land Office responsible for scheduling, preparation of correspondence, and supervision of executive staff.

8. Any and all lists or inventories of the back-up tapes referred to in paragraph 7 above.

You also claim that release of the information apparently requested in categories 7 and 8 would be burdensome. You assert all of the exceptions to required public disclosure set forth in subchapter C of the act with respect to categories 7 and 8, pending review of the voluminous records you state that these categories encompass.

Numerous opinions of this office have addressed situations in which a governmental body either has received an "overbroad" written request for information or a written request for unidentifiable information. For instance, in Open Records Decision No. 23 (1974) at 1-2 this office determined that "an agency may ask for a clarification if it cannot reasonably understand a particular request." More recently, in Open Records Decision No. 561 (1990) at 8-9 this office summarized the policy of this office with respect to requests for unidentifiable information and "overbroad" requests:

We have stated that a governmental body must make a good faith effort to relate a request to information held by it. Open Records Decision No. 87 (1975). It is nevertheless proper for a governmental body to require a requestor to identify the records sought. Open Records Decision Nos. 304 (1982); 23 (1974). For example, where governmental bodies have been presented with broad requests for information rather than specific records we have stated that the governmental body may advise the requestor of the types of information available so that he may properly narrow his request. Open Records Decision No. 31 (1974).

Id. This line of opinions recognizes the practical difficulties governmental bodies may encounter in fulfilling their statutory duties under section 552.301(a) of the Government Code. Moreover, these opinions speak to the requirement set forth in section 552.224 that "[t]he officer of public records or the officer's agent shall give to a person requesting public records all reasonable comfort and facility for the full exercise of the right granted by this chapter," *see, e.g.*, Open Records Decision Nos. 87 (1975) at 5; 23 (1974) at 1, and the policy stated in section 552.227 that "[a]n officer for public records or the officer's agent is not required to perform general research," *see, e.g.*, Open Records Decision Nos. 563 at 8, 555 (1990); 379 (1983) at 4; 347 (1982) at 1. If, in response to categories 7 and 8 of the request at issue here, you have made a good faith effort to relate the request to information in the office's possession and have helped the requestor to clarify his request by advising him of the types of information available, you have fulfilled your obligations under the act.

You also claim that sections 552.101 and 552.111 of the act except the submitted documents from required public disclosure. You assert section 552.101 in conjunction with the attorney-client privilege. Although this office frequently has cited section 552.101 to except from disclosure information within the attorney-client privilege, section 552.107 more specifically covers the privilege. Open Records Decision No. 574 (1990) at 2. Open Records Decision No. 574 held that protection of section 552.107 was limited to information that revealed client confidences to an attorney or that revealed the attorney's legal advice. Section 552.107 does not protect information unless it contains legal advice or opinion or reveals client confidences. *Id.* We have reviewed the information submitted to us for review and conclude that it contains an attorney's legal advice to her client. Accordingly, you may withhold the information submitted to us for review under section 552.107 of the act. You may also withhold the information responsive to categories 7 and 8 pending clarification of the request.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Kymlberly K. Oltrogge
Assistant Attorney General
Open Government Section

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Enclosures: Submitted documents

Ref.: ID# 23400
ID# 23629

cc: Mr. Robert B. Holland, III
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(w/o enclosures)